

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHIGAN STATE TREASURER,

Plaintiff,

Case No. 1:13-cv-00683

v.

Honorable Paul L. Maloney

TIMOTHY J. CONNER #466433,

**ORDER TO PROCEED IN FORMA
PAUPERIS WITHOUT PAYMENT
OF AN INITIAL FEE**

Defendant.

Defendant Timothy Conner has sought leave to proceed *in forma pauperis* in compliance with 28 U.S.C. § 1915(a). The Court grants his motion. The Court must nevertheless require payment of the entire filing fee in installments, in accordance with 28 U.S.C. § 1915(b)(1). *See McGore v. Wrigglesworth*, 114 F.3d 601, 604 (6th Cir. 1997); *Hampton v. Hobbs*, 106 F.3d 1281 (6th Cir. 1997). The current fee for a civil action is \$350.00. Any subsequent dismissal of this case, even if voluntary, does not negate defendant's responsibility to pay the fee. *McGore*, 114 F.3d at 607.

Normally, a plaintiff must pay a portion of the civil action filing fee as an initial partial filing fee. The initial partial filing fee is 20 percent of the greater of (a) the average monthly deposits to the prisoner's account; or (b) the average monthly balance in the prisoner's account for the six-month period immediately preceding the filing of the complaint. 28 U.S.C. § 1915(b)(1). According to the certified copy of defendant's prison trust account statement, defendant had no funds in his account during the period in question. In addition, defendant's affidavit indicates that he has

no assets. Therefore, the Court will not require defendant to pay an initial partial filing fee. *McGore*, 114 F.3d at 606 (citing 28 U.S.C. § 1915(b)(1)).

However, defendant is not relieved from paying the \$350.00 filing fee when funds become available. *McGore*, 114 F.3d at 606. Defendant must pay the \$350.00 filing fee through monthly payments of 20 percent of the preceding month's income credited to defendant's prison trust fund account. 28 U.S.C. § 1915(b)(2); *McGore*, 114 F.3d at 606. These payments will be forwarded by the agency having custody of the prisoner to the Clerk of this Court each time the amount in defendant's trust account exceeds \$10.00, until the filing fee of \$350.00 is paid in full. 28 U.S.C. § 1915(b)(2); *McGore*, 114 F.3d at 607; *Hampton*, 106 F.3d at 1284. The check or money order shall be payable to "Clerk, U.S. District Court" and must indicate the case number in which the payment is made. If the amount in defendant's account is \$10.00 or less, no payment is required for that month. *Hampton*, 106 F.3d at 1284-85.

The Court shall review the case pursuant to 28 U.S.C. §§ 1915(e), 1915A and/or 42 U.S.C. § 1997e(c)(1), as appropriate. After the Court reviews the case, the Court will determine whether dismissal or service of process is appropriate, and will fashion an order accordingly. Should the case be dismissed, voluntarily by defendant or by the Court, defendant shall remain responsible for the filing fee. *McGore*, 114 F.3d at 607. Any pleadings herein served by the United States Marshal shall be at the expense of the United States government. All costs shall be reimbursed to the United States should defendant prevail.

Once service of process has been ordered, the defendant shall serve upon plaintiff or if an appearance has been entered by an attorney, upon the attorney, a copy of every further pleading or other document submitted for consideration by the Court. Defendant shall include with the

original paper to be filed with the Clerk of the Court a certificate stating the date a true and correct copy of any document was mailed to defendant or the attorney. Any paper received by a district judge or magistrate judge which has not been filed with the Clerk or which fails to include a certificate of service will be disregarded by the Court. Accordingly,

IT IS ORDERED that leave to proceed *in forma pauperis* is granted and defendant may proceed *in forma pauperis* without payment of an initial partial filing fee. Defendant will remain liable for the filing fee of \$350.00 as funds become available.

IT IS FURTHER ORDERED that the agency having custody of defendant shall collect the remaining filing fee of \$350.00. As outlined above, each month that the amount in defendant's account exceeds \$10.00, the agency shall collect 20 percent of the preceding month's income and remit that amount to the Clerk of this Court. The agency shall continue to collect monthly payments from defendant's prisoner account until the entire remaining filing fee of \$350.00 is paid.

Dated: June 26, 2013

/s/ Joseph G. Scoville
United States Magistrate Judge

SEND REMITTANCES TO:

Clerk, U.S. District Court
399 Federal Bldg.
110 Michigan St., N.W.
Grand Rapids, MI 49503

All checks or other forms of payment shall be payable to "Clerk, U.S. District Court."